

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:)	
)	
PETITION FOR RATE INCREASE BY KENT’S HARBOR)	ADMINISTRATIVE CAUSE NUMBER: 13-012P
)	

**REPORT OF HEARING OFFICER, INCLUDING FINDINGS
AND PROPOSAL TO THE NATURAL RESOURCES COMMISSION**

1. PETITION FOR RATE INCREASE BY KENT’S HARBOR

On December 26, 2012, Kent Reineking, on behalf of Kent’s Harbor, submitted correspondence to Gary Miller (*Miller*), Assistant Director of the Department of Natural Resources Division of State Parks and Reservoirs (*Division*) seeking a rate increase. The correspondence was referred to the Natural Resources Commission’s Division of Hearings (*Division of Hearings*) on January 2, 2013.

Kent’s Harbor’s Petition elaborates that the increased rates sought would be effective in 2014 and would be approximately 2% above existing rates with “one or two slip size rates proposed to increase 2.5 to 3%.” Also included with the Petition is a listing of existing rates of comparable marinas as compared to Kent’s Harbor’s proposed 2014 rates.

2. SCOPE OF REVIEW

Kent’s Harbor’s Petition is governed by a nonrule policy document approved by the Commission as Information Bulletin #20 (Second Amendment) (*IB #20*) (<http://www.ai.org/nrc/policy/marinara.html>), and published on the INDIANA REGISTER database website as 20091125-IR-312090919NRA. The Commission reflected that the purpose of the information bulletin was to implement an informal process for the review of ratemaking recommendations for resorts and marinas under lease with the Department.

In accordance with IB #20, Kent’s Harbor submitted its petition to the Division of Hearings and the Department before January 1 of the year preceding the year in which the proposed rates, if approved, will be implemented. The Division of Hearings notified Kent’s Harbor of the assigned administrative cause number, the identity of the hearing officer and provided the hearing officer’s electronic mail address for inclusion in the notice required to be provided by Kent’s Harbor to its slip and buoy renters.

On January 28, 2013, Kent’s Harbor issued notice to slip and buoy renters containing the information required by IB #20. Particularly, Kent’s Harbor’s patrons were provided the

opportunity to offer comments and/or request a public hearing regarding the rate increase petition. As required by IB #20, the notice provided specifically that comments and requests for public hearing were required to be received within fifteen (15) days of receipt of the notice at the hearing officer's electronic or US Postal Service address. The notice also offered the notification that a public hearing would be conducted only if at least 10% of the slip and buoy renters requested a public hearing.

Kent's Harbor issued a total of 245 notifications for the 263 slips that are rented¹; therefore, under IB #20, 24 slip and/or buoy renters would have been required to request a public hearing. The Division of Hearings received no correspondence relating to Kent's Harbor's Petition and no requests for a public hearing.

Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate request were available for the public to review at the lessee's business office, during normal business hours. A copy of this information was also available for inspection at the Division. In accordance with the existing lease agreements, the Division is to analyze comparable facilities to compare rates with those sought by the lessee. Information used in the analysis is to be available for inspection at the Division in Indianapolis.

The Commission, through IB #20, has delegated the responsibility of determining the lessee's request to the hearing officer, in consultation with the Division, for requests for rate increase of two percent (2%) or less when no public hearing is required. For sought rate increases over two percent (2%) the hearing officer is required to complete a review of the petition, the public comments, the Division's analysis of the provided comparables and in consultation with the Division prepare a written report for Commission consideration. In this instance, Kent's Harbor's petition seeks certain rate increases of over two percent (2%). Therefore, submission of a report for consideration and ultimate determination by the Commission is required.

The report prepared by the hearing officer is to include written findings with respect to the requested rates and a proposal to the Commission with respect to recommendations to the U. S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Division, and any other person who requests a copy. The hearing officer is to present the findings and recommendations to the Commission during a meeting to be held in May or July.

During that meeting, the Commission will either recommend approval of the rates, disapproval of the rates, or approval of rates in an amount less than requested by the lessee. Recommendation for favorable consideration of rates will not be withheld unless, in the opinion of the Commission, the proposed rates exceed fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

3. WRITTEN COMMENTS

¹ Some patrons rent multiple slips.

The opportunity for the public to submit written comments extended until February 15, 2013. As previously stated the Division of Hearings received no comments or requests for a public hearing associated with Kent's Harbor's Petition.

4. RECOMMENDATION BY THE DNR DIVISION OF PARKS AND RESERVOIRS

As anticipated in IB #20, Miller completed a comparative review of slip rates associated with Kent's Harbor's Petition. Miller's analysis and spreadsheet are attached as Exhibit A and incorporated by reference.

Miller's evaluation included comparison to eight (8) marinas located within a 400 mile radius of Kent's Harbor. Miller noted that Kent's Harbor's Petition seeks a 2-3% increase that will result in 2014 rates that are "on par with the market" and offered the Division's support of the proposed 2014 rates

5. FINDINGS AND PROPOSAL BY THE COMMISSION'S DIVISION OF HEARINGS

A. Findings

The scope of the review accorded by the Commission in IB #20 is addressed to petitions for rate establishment or increase at marinas and related facilities on properties owned or leased by the Department of Natural Resources (*Department*). Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review for the purpose of setting rates at marinas and related facilities is determined by IB #20, which specifies that the lessee "shall include justification for the request along with comparable rates from other marinas." IB #20 proceeds to specify that "the department will analyze comparable facilities to compare rates with those sought by the lessee."

The Commission's role in the setting of rates at marina facilities on Department leased or owned properties is to offer a recommendation regarding the appropriateness of the rates to the U.S. Army Corps of Engineers. In exercising its responsibility to offer a recommendation to the U.S. Army Corps of Engineers, the Commission has charged the appointed hearing officer with the responsibility to review the record, which includes the lessee's request and any supporting documentation, written comments provided by affected persons and the analysis by the Division in preparing a report and proposed recommendation for Commission consideration.

The Commission, through its adoption of IB #20, established as fundamental to a determination of the appropriateness of a proposed rate the consideration of rates charged by comparable marinas. The comparison therefore requires identification of marinas providing services comparable to those provided by Kent's Harbor. That review reveals that the fees charged by Kent's Harbor are consistent with fees of other marinas within a 400 mile radius as required by IB #20.

It is also noted that Kent's Harbor last sought authorization to increase rates in 2009 and has since that time experienced usual and customary increases in broad based operational costs.

Miller notes that Kent's Harbor is a well maintained full-service marina with amenities including a variety of marina services, a golf course and lodging.

B. Proposal

Based upon the information available the Hearing Officer recommends that the Commission approve the "Proposed 2014 Rates" sought in Kent's Harbor's Petition, as set forth at Exhibit B which is incorporated by reference, and suggest approval of this rate increase by the U.S. Army Corps of Engineers.

Dated: April 3, 2013

Sandra L. Jensen
Hearing Officer

Service List:

cc: Gary Miller, DNR, Division of State Parks and Reservoirs
Kent Reineking, Kent's Harbor

EXHIBIT A

February 28, 2013

To: Sandra Jensen, Administrative Law Judge
Natural Resources Commission
100 N. Senate Ave, RM N501
Indianapolis, IN 46204

Fr: Gary Miller, Assistant Director
Indiana State Parks and Reservoirs
402 W. Washington St. RM W298
Indianapolis, IN 46204

Re: Kent's Harbor Marina rate increase request, Administrative Cause No. 13-012P

The Division of State Parks and Reservoirs has completed the review of comparable rates for Kent's Harbor Marina in regard to their request for a slip rate increase for the 2014 season. Attached is a spreadsheet with comparable marinas within a 400 mile radius as per Bulletin # 20.

The request increase is in the 2-3% range and the requested rates appear to be justified. Looking at the comparable facilities the requested rates are on par with the market. The last approved rate increase was in 2009, and the facilities are maintained in good order. Kent's Harbor is a full service marina with amenities including marina services, restaurant, lodging, golf course, pool and internet service. They provide pump out service, a ships store and have a clubhouse with showers for the marina patrons. The DNR does not receive many complaints in regard to service, rates, or condition of the marina.

The Division of State Parks and Reservoirs supports the request as submitted.

Kent Harbor Slip Rate Comparability
2014 Rate Increase

Slip Length B-G Docks	Kent Harbor	Trade Winds Marina Keyesport, IL 281 miles	Son Rise Marina Sandusky, OH 234 miles	Sandusky Harbor Sandusky, OH 232 miles	Four Corners Anitoch, TN 339 miles
20'	\$1,625 <i>season</i>			\$1,500	\$1,680
26'	\$2,230	\$2,340	\$3,225	\$1,975	\$2,760
30'	\$2,575	\$2,700	\$3,225	\$2,248	\$2,760
36'	\$2,925	\$3,240	\$3,225	\$3,107	\$3,540
40'	\$3,240	\$3,600	\$3,225	\$3,630	\$3,540
50'	\$3,720	\$4,500	\$4,175	\$4,613	\$4,620
H-Dock					
24'	\$1,725.00 <i>season</i>	\$2,160	\$3,225	\$1,500	\$1,980
60'	\$4,495	\$5,400			\$5,940
A-Dock					
24'	\$1920 <i>season</i>	\$2,160		\$1,500	\$1,980
28'	\$2340 <i>season</i>	\$2,520		\$1,700	\$2,760
24'	\$2,275	\$2,160		\$1,938	\$1,980
28'	\$2,325	\$2,520		\$2,211	\$2,760
30'	\$3,045	\$2,700	\$3,225	\$2,248	\$2,760
36'	\$3,415	\$3,240	\$3,225	\$3,107	\$3,540
46'	\$4,365	\$4,140	\$3,634	\$4,140	\$4,620
70'	\$6,895	\$6,300			\$8,880
I-Dock					
24'	\$2,025	\$2,160	\$3,225	\$1,938	\$1,980
28'	\$2,545	\$2,520	\$3,225	\$2,211	\$2,760

AGENDA ITEM #9

Slip Length B-G Docks	Kent Harbor	Grinder Hill Marina <i>Cumberland, KY 259 miles</i>	Four Season Marina <i>Cincinnati, OH 61 Miles</i>	Lake Center Marina <i>St. Louis, MO 345 miles</i>	Lake Monroe Marina <i>Bloomington, IN 120 miles</i>
20'	\$1,625.00 season		\$1,580	\$1,660	\$1,500
26'	\$2,230.00	\$2,582-\$2,836	\$2,730	\$2,875	
30'	\$2,575.00	\$2,712-\$3,255	\$3,150	\$3,070	\$2,500
36'	\$2,925.00		\$3,780	\$3,895	
40'	\$3,240.00	\$4,135-\$4,642	\$4,200	\$3,895	\$3,600
50'	\$3,720.00	\$5,170	\$5,250		\$3,800
H-Dock					
24'	\$1,725.00 season	\$1,739-\$2,194	\$1,896	\$2,060	
60'	\$4,495		\$6,300		
A-Dock					
24'	\$1,920 season	\$1,739-\$2,194	\$1,896	\$2,875	
28'	\$2,340 season		\$2,212	\$2,875	\$2,495
24'	\$2,275	\$1,739-\$2,194	\$2,520	\$2,875	
28'	\$2,325	\$2,712-\$3,255	\$2,940	\$2,875	\$2,494
30'	\$3,045	\$2,712-\$3,255	\$3,150	\$3,070	\$2,500
36'	\$3,415	\$4,135-\$4,642	\$3,780	\$3,895	\$3,600
46'	\$4,365	\$5,170	\$4,830	\$4,500	\$3,800
70'	\$6,895		\$7,350		
I-Dock					
24'	\$2,025	\$1,739-\$2,194	\$2,520	\$2,875	
28'	\$2,545	\$2,712-\$3,255	\$2,940	\$2,875	

EXHIBIT B

Kent's Harbor Dockage Rates 2009 – 2013			Proposed 2014 Rates
B through G – Docks			
20'	\$1595.00	Seasonal	\$1625.00
26'	\$2190.00	Annual	\$2230.00
30'	\$2525.00	"	\$2575.00
36'	\$2865.00	"	\$2925.00
40'	\$3175.00	"	\$3240.00
50'	\$3615.00	"	\$3720.00
Over 50'	\$75.50 / Ft.		\$77.75 / Ft.
H – Dock			
24'	\$1675.00	Seasonal	\$1725.00
18' x 60'	\$4390.00	Annual	\$4495.00
Over 60'	\$75.50 / Ft.		\$77.75 / Ft.
A – Dock			
24'	\$1885.00	Seasonal	\$1920.00
28'	\$2295.00	"	\$2340.00
13' x 24'	\$2230.00	Annual	\$2275.00
13' x 28'	\$2575.00	"	\$2625.00
14' x 30'	\$2885.00	"	\$2940.00
15' x 30'	\$3085.00	"	\$3150.00
15' x 36'	\$3240.00	"	\$3300.00
16' x 36'	\$3460.00	"	\$3530.00
18' x 46'	\$4280.00	"	\$4365.00
20' x 70'	\$6775.00	"	\$6895.00
Over 70'	\$94.50 / Ft.		\$96.40 / Ft.
I – Dock			
24'	\$1990.00	Seasonal	\$2025.00
28'	\$2495.00	"	\$2545.00